

9/19/02

IN RE: AMENDED DEVELOPMENT PLAN HEARING * BEFORE THE
& SPECIAL HEARING REQUEST *
S/S of Joppa Road, E of Goucher Boulevard * HEARING OFFICER
9th Election District *
4th Councilmanic District * OF BALTIMORE COUNTY
(Towson Marketplace) *
Case Nos. IX-386 & 02-204-SPH
Talisman-Towson Partnership, LLC *
Developer *

* * * * *

HEARING OFFICER'S OPINION & DEVELOPMENT PLAN ORDER

This matter comes before this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, as a requested approval of a Development Plan prepared by KCW Engineering Technologies. In addition to the requested approval of the Development Plan, the Petitioner is also requesting a Special Hearing to allow the construction of a 6,000 sq. ft. building known as "Tenant No. 16", on a pad site fronting on Putty Hill Avenue, and approval to close 14,700 sq. ft. of gross leaseable area on the second floor of the center known as "Tenant No. 13A", thereby revising the gross leaseable area of the overall center from 694,000 sq. ft. to 685,000 sq. ft.

Appearing at the hearing on behalf of the Development Plan and Special Hearing request were James Schlesinger, on behalf of the owner of the property, Mark Tsitlik and Douglas Kennedy, professional engineers with KCW Engineering Technologies, Wendy Hunter and Anne McAbee, representatives of the "Red Robin" Restaurants. The Petitioner was represented by John B. Gontrum, attorney at law. Appearing in opposition to the Petitioner's request were several residents of the surrounding communities and also representatives of the surrounding community associations. These individuals are too numerous to mention to specifically identify herein. However, all have signed in on the Citizen and Protestant Sign-In Sheets. The citizens were represented by Jack Murphy, attorney at law. As is usual and customary, representatives of the various Baltimore County reviewing agencies also attended the hearing; namely, John Sullivan (Zoning Review), Bob Bowling (Development Plans Review) and Donald Rascoe (Development Management) and Eric Rockel (Bureau of Land Acquisition), all from the Office

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R. J. [Signature]

of Permits & Development Management; Mark Cunningham from the Office of Planning; and Deborah Files from the County Council.

Testimony and evidence indicated that the property, which is the subject of the Development Plan approval and Special Hearing request, consists of 43.12 acres of land, more or less, the majority of which is zoned BL-CCC, with a small portion zoned ML-IM. The subject property is a commercial shopping complex located on the northeast corner of the intersection of Goucher Boulevard and Putty Hill Avenue and on the southeast side of the intersection of Prince Road and Joppa Road. The commercial retail center is known as "Towson Market Place".

The subject property has been the object of many prior zoning cases over which this Hearing Officer has presided in the past. The owner of the property has done an excellent job in redeveloping this commercial complex for the neighborhoods which surround this site. Prior to the involvement by this owner, the site had deteriorated with most of the tenants having closed their businesses. Since taking over the project, Mr. Schlesinger and his company have made the subject site a viable commercial entity, bringing to this community some very popular tenants and commercial retail outlets. Most all of the citizens who testified at the hearing, even though their testimony was in opposition to this specific request, openly admitted that they regularly visit and patronize the many stores located on this property.

Under consideration at this time, and the purpose of filing the special hearing and Development Plan, is a request to add an additional tenant to this commercial complex. Mr. Schlesinger testified that he has secured a commitment from Red Robin Restaurants to locate one of their prototypical restaurant uses on this property. This tenant has expressed interest in constructing a 6,000 sq. ft. freestanding restaurant building in the area of the shopping center adjacent to the existing "Blockbuster" Video Rental store. The exact location of the restaurant, which is identified on the Development Plan as "Tenant No. 16", is more particularly shown on the site plan submitted into evidence. Inasmuch as the construction of this new freestanding restaurant facility is a material change to the Development Plan, and not a refinement thereto, the Developer has requested a Hearing Officer's Hearing for approval of this new tenant. In

addition, as stated previously, the special hearing request is necessary to approve the modification to the old site plan and also to approve the closure of certain former leaseable space.

As was demonstrated at the hearing and testified to by Mr. Schlesinger and Mr. Kennedy, the property owner is providing only enough parking spaces to service the amount of gross leaseable area that currently exists in this shopping complex. By adding this additional 6,000 sq. ft. restaurant use, the Petitioner would then exceed the parking allocation on the property. To remedy this problem, in lieu of requesting a variance for the parking deficiency that would be created, the property owner proposes to close off an area of the second floor of this shopping complex. That particular area consists of 14,700 sq. ft. of gross leaseable space which was previously occupied by a store known as "Aisle 3". The 14,700 sq. ft. of space in question is remotely located on the second floor of the shopping center which is not a prime location for leaseable space. Therefore, the property owner has chosen to simply close off that space, no longer use it for any purposes whatsoever and thereby seek a credit for the amount of parking spaces attributable to that space. That credit of parking spaces would then be utilized to allow the new Red Robin Restaurant to locate on the property, without requiring a variance for parking.

As to the Red Robin restaurant, testimony was offered by the property owner as to this particular type of restaurant use. Ms. Anne McAbee, who testified on behalf of Red Robin Restaurants, indicated that this particular restaurant caters to families. She presented architectural renderings of the building they hope to construct on the property and discussed with the citizens in attendance the type of food that is offered, as well as the manner in which the small bar area operates within the restaurant. The great majority of income generated by these particular restaurants is from food service and not liquor sales. Ms. McAbee further stated that the Red Robin Restaurant chain has a "No Smoking" policy that applies to their entire restaurant, including the bar area. Therefore, she stated that given the family atmosphere provided by her business, the bar area is not a location that attracts large gatherings of people congregating and

consuming alcohol.

I indicated at the hearing that I am very familiar with the Red Robin Restaurant chains, having visited these restaurants in Hershey, Pennsylvania, as well as their new location in Owings Mills, Maryland. The Red Robin Restaurant would be a tremendous asset to not only this shopping center, but also to all of the surrounding communities which patronize this shopping center. In my opinion, it would most likely be the most popular restaurant in the area.

In order to accommodate this new tenant in the southwest corner of this site, adjacent to the Blockbuster Video Rental store, certain modifications have been proposed to the entrance from Putty Hill Avenue. These modifications are necessary in order to channel traffic in a manner so as not to interfere with pedestrians and patrons walking to this new restaurant use. The Petitioner proposes to close off an existing left turn access point that is located immediately within the center from Putty Hill Avenue. This would force all traffic to proceed further into the center and be required to make a left or right turn in front of the Pet Smart store. In exchange for the closing of this left turn access, the County Bureau of Traffic Engineering has requested that the Petitioner provide an additional right-turn in/right-turn out access point off of Goucher Boulevard. This additional means of access to and from the site would help to alleviate traffic congestion in front of the Pet Smart, in the opinion of Mr. Rahee Famili, the representative from the Bureau of Traffic Engineering who testified at the hearing. As stated previously, in order to accommodate this new Red Robin Restaurant use, the special hearing, as well as the Development Plan approval is necessary.

Many residents from the surrounding community and representatives of the surrounding community associations appeared in opposition to the Petitioner's request. The cumulative testimony of these citizens was that they are not necessarily opposed to this new restaurant use coming to their neighborhood shopping center. These individuals were impressed by the presentation made by representatives of the corporate office of Red Robin Restaurants. However, these citizens are strongly opposed to the location chosen by the Developer on the shopping center site for this restaurant use. This particular area of the shopping center, that area

being the southwest quadrant of the overall site, contains the most popular retail uses in the entire center. The parking lot for that area of the center is heavily utilized by customers coming and going to the various stores in that area. In addition, there are many automobiles utilizing the Putty Hill access point which is proposed to be modified by the Developer. Concentrating another popular tenant, such as the Red Robin Restaurant in this area of the center, would, in the opinion of the many citizens who attended the hearing, exacerbate this traffic congestion and parking problem. These citizens were of the opinion that the restaurant use is a good idea proposed to be built at a bad location. For these reasons, they ask that the special hearing and Development Plan be denied and that perhaps the Developer either locate the Red Robin Restaurant into an area where there exists vacant leaseable space, or construct the freestanding restaurant building elsewhere on the shopping center property.

In addition, the citizens were meticulous in counting the number of parking spaces located in the parking field where the Red Robin Restaurant is proposed to be located. They took issue, and rightfully so, with the number of parking spaces represented on the Development Plan submitted at the hearing. It was pointed out by the citizens that the plan in question fails to take into account shopping cart corrals that are located on the parking lot which occupy parking spaces. This, along with some other deficiencies in the manner in which parking spaces were counted, causes the actual number of parking spaces to be inaccurate.

In addition, the citizens took exception to the proposal to discontinue utilizing area from another portion of the shopping center which, for the most part, goes unused and transferring the parking spaces allocated for that leaseable area to this new restaurant use. These citizens believe that this should not be permitted to occur.

After considering the testimony and evidence offered by the Developer, the many citizens who attended the hearing, the submission of memoranda of law by Mr. Gontrum, as well as Mr. Murphy, and my personal site visits to the property, I find that the special hearing request, to allow the construction of a 6,000 sq. ft. restaurant building, adjacent to the Block Buster Video Rental store and the requested approval of the Development Plan to allow the restaurant to be

4/19/02
R. Gontrum

built in that location, should be denied. I am not persuaded by the testimony and evidence offered by the Developer that this particular restaurant use could be located in this corner of the shopping complex without having a severe detrimental impact on parking, as well as the traffic flow coming and going to this site. The testimony demonstrated, and my site visits revealed, that this particular parking field is heavily utilized by customers patronizing the very popular retail uses located on that side of the shopping center. Adding a Red Robin Restaurant, which I know, based on my personal experience, would be an extremely popular restaurant use with the surrounding neighborhoods, cannot be accomplished at the location chosen by the Developer.

I am in favor and would approve a Red Robin Restaurant locating on this shopping center property at a more appropriate location. That location could possibly be somewhere within the existing already built vacant leaseable area, or another pad site located on another area of the property. I am confident, based on my experience with this restaurant, that the Red Robin would attract its own customer base and clientele and would not have to feed off of the customers who are patronizing other stores. These residents and citizens who live in this area will seek out this restaurant as a destination use. Therefore, in my opinion, this restaurant is perfectly capable of being successful wherever it is located on this property. Perhaps the parties involved in this case could agree on an alternate location for this restaurant use to be located. In the event that occurs, I would be willing to entertain a request for modification of this decision, based on this new location. However, as it stands at this time, given the location chosen on the Development Plan and site plan submitted, along with the special hearing request, the location of this Red Robin Restaurant is not appropriate and should be denied.

Lastly, I should entertain the second special hearing request filed by the Petitioner. That request is seeking approval to close 14,700 sq. ft. of gross leaseable area on the second floor of the property. This would free up the requisite number of parking spaces to allow this freestanding restaurant use to be constructed. I believe it is entirely appropriate for this Developer to seal off and discontinue the use of that vacant space and thereby apply the parking associated with that space to this new use. However, it must be made clear that this discontinued

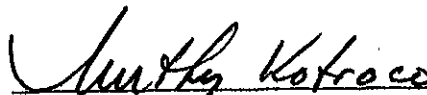
space shall not be utilized in any fashion and the manner in which it is closed off must be permanent in nature. This would have to be inspected on a regular basis by the Code Enforcement Section of Baltimore County to ensure that the space in question is not being utilized in any manner. Accordingly, that portion and only that portion of the Petitioner's special hearing request shall be granted. By granting that particular portion of the special hearing request, the Developer will have the flexibility to try to chose an alternate location on this property for this Red Robin Restaurant.

THEREFORE, IT IS ORDERED, by this Deputy Zoning Commissioner/Hearing Officer for Baltimore County, this 19th day of April, 2002, that the Development Plan filed for the Towson Market Place requesting approval to modify the Development Plan, by adding a new restaurant use known as "Tenant No. 16" in the southwest corner of the subject site be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Special Hearing Request, to modify the previously approved site plan to allow the construction of a 6,000 sq. ft. restaurant building, be and is hereby DENIED.

IT IS FURTHER ORDERED, that the Special Hearing Request, to allow the Developer to close 14,700 sq. ft. of gross leaseable area on the second floor and apply the parking spaces associated with that closed space to a new tenant use, shall be GRANTED.

Any appeal from this decision must be taken in accordance with Section 26-209 of the Baltimore County Code and the applicable provisions of law.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj



Baltimore County
Zoning Commissioner

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April 19, 2002

John B. Gontrum, Esquire
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Baltimore, MD 21221

RE: Hearing Officer's Hearing No. IX-386 &
Case No. 02-204-SPH
Property: S/S of Joppa Road, E of Goucher Boulevard
9th Election District, 4th Councilmanic District
Towson Marketplace

Dear Mr. Gontrum:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits & Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Timothy M. Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Come visit the County's Website at www.co.ba.md.us



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IN THE MATTER OF THE
REQUEST FOR SPECIAL HEARING
FOR AMENDMENT TO
SITE PLAN/DEVELOPMENT PLAN
FOR TOWSON PLACE

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*
* CASE NO.02-204-SPH

4-3-02 * * * * *

PROTESTANT'S REPLY MEMORANDUM

The Associates of Loch Raven Village, Inc. by their attorney John V. Murphy, Esq., respectfully submit the following Reply Memorandum in support of their case.

The Protestants incorporate and repeat the arguments, regulations, statutes and facts set forth in their Protestant's Trial Memorandum previously submitted to the Hearing Examiner on the day of trial. In response to the Petitioner's Memorandum, the Protestants state:

The Petitioner cites as authority for its position in favor of approval the case of *Roeser v Anne Arundel County*, case no 79, September term 2001, Filed March 7, 2002 and attached in full herewith. *Roeser* involves the question whether a landowner who purchases property which he knows or constructively knows is subject to restrictions is precluded from applying for a variance because such a hardship would be self created. The Court of Appeals reasons for twenty four pages about Maryland, other State and Federal cases involving this question. The Court also discusses the difference between use and area variances at some length. In the end the Court concludes that simply because a person purchases property does not as a matter of law preclude him from a variance.

The problem that the Petitioner has in relying on this case is that he has not asked for a variance. While he needs a further variance for parking, his position is that he needs neither a use nor an area variance. Furthermore he has not recently purchased the property. And he has not been even been accused by the Protestants of creating a hardship just because he purchased the property and there were

zoning regulations in place at the time of his purchase.


He has imposed any hardship on himself because he redesigned a shopping center into a strip center which no longer has shared parking. That is truly self imposed. *Roeser*, although an interesting review of self imposed hardship by means of purchase is simply not relevant to any of the questions at issue in this case.

The Petitioner next argues that the definition of gross leasable area really means that if the landlord can not rent all of the space he builds he is excused from providing parking for that unleased space. So if the Landlord's price is too high or the facilities not up to market, then according to the Petitioner, the Landlord should not have to provide parking for the area. Or perhaps we could have movable parking depending on the how much profit the Landlord thinks is reasonable.

However none of this is in the definition of gross leasable area which has to be read in its common sense meaning. The word "leasable" really means "able to be leased". This has nothing at all to do with the Landlord's sales ability. The definition clearly designates that true public or common areas are not counted in parking calculations. The definition of total floor area further specifies exactly what is outside of the calculation for gross leasable area. None of these factors are present in this situation. In fact the area to be retired was rented to a previous tenant so it is fairly obviously "leasable".

Finally the Petitioner's statement that the red line plan has been approved by every County agency is simply not the case. The agencies rely upon the truthfulness of the Petitioner's representations. They do not do on site inspections. They do not count parking spaces. The Petitioner's did not disclose to the agencies that they were not truthful regarding the parking spaces provided on site and that the Petitioner's actual parking spaces are in violation of the present parking requirements under the existing two variances. And most importantly the agencies simply deferred to the Hearing Examiner's determination of the proposition that a Landlord could simply declare spaced leased to a tenant previously was now not leasable and retired so as to no longer require parking be provided.

For the reasons given herein and in the Protestant's Trial Memorandum, the Protestants respectfully request that the Petition be denied.



JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Protestants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of ^{? April ?} May 2002, a copy of the foregoing Protestant's Reply Memorandum was mailed postage pre-paid to John B. Gontrum, Esq., 814 Eastern Boulevard, Baltimore, Maryland 21221, attorney for the Petitioner.



JOHN V. MURPHY, ESQUIRE

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April 8, 2002

APR 11 2002

Hon. Timothy Kotroco, Deputy Zoning Commissioner
Zoning Commissioner's Office of Baltimore County
County Courts Building
401 Bosley Avenue
Fourth Floor
Towson, MD 21204

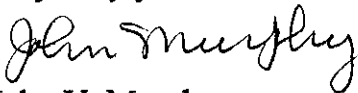
Re: Protestant's Reply Memorandum
Towson Market
Case no. 02-204-SPH

Dear Mr. Kotroco:

Enclosed please find the Protestant's Reply Memorandum for your consideration. I received the Petitioner's Memorandum on Saturday, April 6, 2002. As I recall you allowed three days to reply.

Please let me know if you have any questions.

Very truly yours,


John V. Murphy

JVM:pam

Enclosures

cc: Kim McGavin, Esq.
John Gontrum, Esq.

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IN THE MATTER OF THE
REQUEST FOR SPECIAL HEARING
FOR AMENDMENT TO
SITE PLAN/DEVELOPMENT PLAN
FOR TOWSON PLACE

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*
* CASE NO. 02-204-SPH

* * * * *

PROTESTANT'S TRIAL MEMORANDUM

The Associates of Loch Raven Village, Inc. by their attorney John V. Murphy, Esq., respectfully submit the following Memorandum in support of their case.

Free Standing Restaurant on Shopping Center Property

The Petitioner contends that the proposed restaurant (Tenant # 16) should be treated as a restaurant included in a shopping center and afforded the parking benefits of five (5) parking spaces per thousand feet of gross leasable area. The Protestant's contend that the restaurant should be treated as any free standing restaurant and be required to provide 16 parking spaces per thousand feet of gross leasable area. As such the Petition should be denied as the Petitioner would need additional parking variances which he has not requested.

The relevant sections of the Baltimore County Zoning Regulations are:

"SHOPPING CENTER -- A group of three or more commercial uses which: (a) are designed as a single commercial group; (b) are under common ownership or control; (c) are connected by party walls, partitions, canopies or other structural members to form one continuous structure or, if located in separate buildings, are interconnected by walkways designed to facilitate customer interchange between the uses; (d) share a common parking area; and (e) otherwise present the appearance of one continuous commercial area". (Emphasis supplied).

All of the Petitioner's Exhibits depicting the property show the proposed

restaurant as a free standing building which is separated by approximately 350 feet from the main cluster of buildings on the property. The new restaurant is clearly not “connected by party walls, partitions, canopies or other structural members to form one continuous structure”. Most importantly there are no “interconnected walkways designed to facilitate customer interchange between the uses”. Without these walkways, the restaurant can not possibly be considered part of the shopping center and therefore can not be entitled to greatly reduced parking requirements.

The reason the Regulations allow much reduced parking for a restaurant in a shopping center is that the center is “designed to facilitate customer interchange between the uses”. The customer comes once to the center, parks and visits many stores. Thus the traffic generated, the number of vehicles to accommodate is greatly reduced. This center, however, is not designed to facilitate customer interchange between the uses. As proof the plan does not even address walkways between buildings assuming rather that the customer will drive to each store.

The Petitioner’s Exhibits and testimony show that what had previously been a shopping mall with interior access for pedestrians to all the center’s stores had been redesigned in 1996 into a “Power Box Center”. This present design eliminates all common interior walkways between stores. The only access to the stores is on the interior driveway. It requires customers to drive to and park near each store. Consequently the proposed restaurant does not share a “common parking area” with the rest of the center. As shown on Protestant’s Exhibit 1, while the restaurant is located on parking area A, because of the owner’s design, the new restaurant does not share parking with the remaining parking areas B, C and D.

The owner testified that it was unreasonable to expect a person parking on

area B, C or D, for example, to walk to the stores fronting on area A. Rather the customer who wanted to go to several stores on opposite sides of the main cluster of stores would drive to the first store, shop, and then drive to the second. This is exactly the pattern of use that indicates free standing stores rather than a shopping center. There is no attempt to design to facilitate customer interchange between the uses. The Petitioner further admitted that it was impractical for patrons to walk more than 300 feet to the front of a store. A quick addition of the distances on the Petitioner's Exhibits shows that the distance between area A and the other parking areas far exceeds this distance. For example the distance between the middle of tenant no 10 (Target) store which fronts on area A and parking area B is nearly 1000 feet. The walking distance from the new restaurant entrance is another 700 feet from area B. Consequently the center as now designed does not share parking areas with the main collection of stores much less with a new free standing restaurant on the lower extremities of parking area A.

Parking areas B, C and D (Protestant's Exhibit 1) are so far from the stores fronting on parking area A, that they would not even qualify as off site parking for those stores much less the new restaurant. Section 409.7 B1 specifies that "off-site parking spaces for uses other than residential and lodging shall be located within 500 feet walking distance of a building entrance to the use that such spaces serve". The new restaurant is nearly 1700 feet away from area A and that is not the most "remote" parking area.

Nor can the new restaurant claim to benefit from "shared parking" with stores on area A. Those stores contain 260,000 sq. ft of gross leasable area which require 1300 parking spaces. There are only 877 parking spaces claimed for area A much less

actually available. Parking variances granted in the past amount to 498 spaces of the 3470 required under the regulations. This is a 14.35% reduction and if applied to area A, would reduce the requirement by only 187 spaces leaving 1113 spaces required. Again 877 are theoretically provided.

In addition the peak hours for restaurants and shopping center are the same according to Section 409.6B3 so that there could be no "shared parking" in area A even if the Petitioner had asked for such which he has not.

Retiring Leasable Area

Even with if the restaurant is considered part of a shopping center, the restaurant requires 30 new spaces and occupies 23 old spaces. Consequently the Petitioner has boldly gone where no one has gone before in Baltimore County. He requests the Zoning Commissioner to allow him to "retire" 14,700 sq. feet of leasable space. This is wholly a paper transaction. He does not propose to actually reduce the area he could rent but rather simply say that the area is retired. The Petitioner's problem is the he has no basis in the Code or Regulations permitting any such scheme. His expert witness freely admitted this. Unlike other law, in zoning you can not do it unless it is specifically permitted.

In addition the parking calculation for a shopping center greater than 100,000 sq. feet as this one is, requires the Petitioner to calculate "gross leasable area" to determine the number of parking spaces needed. The Regulations define this factor as

GROSS LEASABLE AREA (GLA) – The total floor area of a building for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use. Gross leasable area does not include public or common areas which are not leasable to individual tenants,

e.g., enclosed pedestrian concourses in shopping malls. [Bill No. 26-1988].

Total floor area is also defined as:

FLOOR AREA, GROSS -- The sum of the gross horizontal areas of all floors of a building, measured from the exterior faces of exterior walls and from the center line of walls separating two or more buildings, but not including floor space used for off-street parking, or any space where the floor-to-ceiling height is less than six feet. This term does not include any floor space in a basement or cellar which is used exclusively for storage or upon which are situated accessory heating or air conditioning equipment or other accessory mechanical or electrical utility equipment, nor does it include any floor space in an atrium or lobby which is not leasable to or occupied by individual tenants. [Bill No. 26-1988]

The Petitioner's witnesses were very clear that none of the exceptions on gross floor area applied in this case. This space was of full height with drywall walls obviously ready for tenant occupancy. If further proof were needed that the space was leasable, the Petitioner's witnesses testified that it had previously been leased to a tenant (#13) known as Aisle 3. It was just that the tenant which followed Aisle 3 did not want to rent as much space and so the Petitioner erected a wall separating the area to be "retired" from the rest of tenant #13's area. There is no question the space "retired"(here after designated tenant 13A) was and is very leasable.

How successful a landlord is renting space is not listed as a criteria in the Regulations as something to be considered when doing calculations for parking spaces. The Regulations do not allow "retiring" space at all much less in context to adding new tenants to the site plan.

Retired Space to be "Common" Space.

Seeing that there may be problems with the above argument, the Petitioner next says he will simply characterize the space he was going to retire as "common space" which is not counted in the gross floor area and therefore in parking. While there is no definition of common space in the Regulations, this is a term of art in the world of landlord- tenant. Black's Law Dictionary defines the phrase common area as "the realty the all tenants may use although the Landlord retains control and responsibility over it". Landlords like to pass on the cost of real common area to tenant on the basis that they and or the public benefit from the common use of the space. For example the corridors in a mall are used by all (tenants and public) and the cost to maintain them is normally passed on to the tenants as a factor of their rent.

The Petitioner admitted that the area retired (tenant 13A) however was on the back side of tenant 13's space, was on the second floor, was accessible only by a 130 foot corridor, was not to be used or benefit either the tenants or the public but would remain a closed, locked, empty room. This is hardly common area. If any proof was needed that this space was not common area, the Petitioner's testified that he did not intend to pass on the cost of maintaining area for tenant13A to his other tenants should end any such arguments

Finally the Protestant's witness with personal knowledge of the center, testified as to the amount of vacant stores in the center at the time of the hearing. They testified the Petitioner has 188,000 sq. feet of vacant space at the present time. We are presented with a tenant in Red Robin Restaurant that would occupy 6000 sq. feet of that vacancy or more. One has to wonder why would this issue even arise?

The only answer evident to the Protestants is that this is a way to expand the

center by 6000 sq. feet without asking for another variance for parking. Should the Petitioner's request be granted, the center would then have grown effectively to 700,000 sq. feet of gross leasable area without any additional parking.

Density of Uses Around Area A.

In a Petition for Special Hearing such as before the Commissioner, the Petitioner must justify the existing parking variances. They are not given. The Petitioner has designed the center such that he has tenants occupying 260,000 sq. feet fronting on area A (Protestants Exhibit 1). This would require 1300 parking spaces using the center parking factor of five spaces per thousand GLA. He has provided 877 spaces on his plan. The Protestant witnesses testified how the present driveway and parking are already congested.

Adding the free standing restaurant to parking area A will greatly increase the present problem of overcrowding. A free standing restaurant should require an additional 96 spaces (using 16 spaces per thousand GLA). The Red Robin witnesses testified she would like to see 95 to 120 spaces dedicated for a restaurant of this size. The new restaurant will occupy 23 old spaces per the Petitioner's plan.

Area A starts 423 spaces short (1300-877). Adding the restaurant at this location will mean that area A is now 542 parking spaces short of what is required by the code. The effect on the public will be continuous parking problems, congestion, unsafe conditions and many more pedestrian and vehicular accidents.

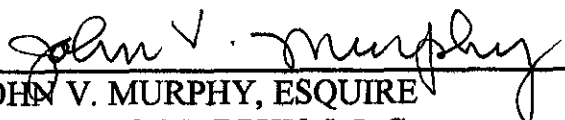
The new restaurant would have no effect on traffic if located in the main center on the north side of the center in some of the 188,000 sq. feet of presently vacant space. This problem is wholly self imposed by the Petitioner. He redesigned the center to its present Power Box configuration so that parking can not be shared.

He chose a location for the new restaurant that would increase danger and inconvenience to the public when thousand of sq feet of space are vacant in the present center.

Petitioner's Plan do not Reflect on Site Conditions

The Petitioner's witnesses confirm the Protestant's testimony that the existing parking area A has shopping cart corrals that occupy 13 parking spaces. This is not shown on the Petitioner's plan although he purports it to reflect the on site conditions. In addition the Petitioner's plan shows the new restaurant will occupy 23 existing parking spaces. There is no mention in the plan about counting the 8 spaces to be lost by the new Goucher Road entrance. The Protestants testified that the actual parking count is in error as reflected on the plan. In short the Petitioner cannot provide enough parking spaces to support even the present parking variances much less a new restaurant needing another 96 spaces.

For the reasons given the Protestants respectfully request that the Petition be denied.



JOHN V. MURPHY, ESQUIRE
MURPHY & MURPHY, L.L.C.
14 North Rolling Road
Catonsville, Maryland 21228-4848
410/744-4967
Attorney for Protestants.

IN THE MATTER OF 1238
PUTTY HILL AVENUE
TOWSON MARKETPLACE
E/s Goucher Boulevard 122' n centerline of
Putty hill avenue
TALISMAN TOWSON LIMITED PARTNERSHIP

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY

9TH ELECTION DISTRICT
4TH COUNCILMANIC DISTRICT

* CASE NO. 02-204-SPH
* P.D.M. No.: IX-386

APR 4 2002

MEMORANDUM OF PETITIONER

This matter comes before the Hearing Officer as a combined hearing pursuant to Baltimore County Code Section 26-206.1 for a special hearing to amend a previously approved plan by the closing of 14,700 square feet of area within the interior of the shopping center, adding a 6,000 square foot pad site and resulting in a gross leasable area of 685,300 square feet in lieu of the previously approved 694,000 square feet and to provide 2,947 parking spaces in lieu of the previously approved 2,972 spaces. In addition, the Petitioner sought to locate a 6,000 square foot pad site adjacent to the western Putty Hill entrance onto the site in an amended development plan.

Although there is an issue with respect to opening an entrance onto the center on Goucher Boulevard, which issue will be subsequently addressed herein, the primary issues pertain to the propriety of closing area within the center and thereby reallocating parking allotted to it to space proposed to be built and to the location of the pad site. The proposed site is adjacent to two other pad sites previously approved for the center.

ISSUES

- I. DOES THE ZONING COMMISSIONER HAVE THE AUTHORITY TO DETERMINE THE AMOUNT OF GROSS LEASABLE AREA WITHIN A SHOPPING CENTER?
- II. DOES THE PROPOSED PAD SITE QUALIFY AS PART OF THE OVERALL SHOPPING CENTER FOR PARKING PURPOSES?
- III. DOES THE PROPOSED 6,000 PAD SITE MEET BALTIMORE COUNTY DEVELOPMENT STANDARDS SUCH THAT IT WILL NOT BE INJURIOUS TO THE HEALTH, SAFETY OR GENERAL WELFARE?
- IV. IS AN ENTRANCE OFF OF GOUCHER BOULEVARD OR PRINCE ROAD DESIRABLE?

DISCUSSION

- I. DOES THE ZONING COMMISSIONER HAVE THE AUTHORITY TO DETERMINE THE AMOUNT OF GROSS LEASABLE AREA WITHIN A SHOPPING CENTER?

The Court of Appeals in Roeser v. Anne Arundel County, 2002WL 356771, March 7, 2002, recently had occasion to review area variances and quoted with approval language in Landay v. MacWilliams, 173 Md. 460, 196 A. 293 (1938):

“Such ordinances are in derogation of the common law right to so use private property as to realize its highest utility, and while they should be liberally construed to accomplish their plain purpose and intent, they should not be extended by implication to cases not clearly within the scope of the purpose and intent manifest in their language. Id., 173 Md.

460, 466, 196 A.293,296 (1938).¹

In this case the term under consideration is "Gross Leasable Area", for Section 409.6A.2 determines parking requirements for shopping centers based on Gross Leasable Area. Section 101 of the Baltimore County Zoning Regulations defines the term as follows:

GROSS LEASABLE AREA (GLA) -- The total floor area of a building for which the tenant pays rent and which is designed for the tenant's occupancy and exclusive use. Gross leasable area does not include public or common areas which are not leasable to individual tenants, e.g., enclosed pedestrian concourses in shopping malls. [Bill No. 26-1988].

Clearly, the intent of this language was to determine the space that was actually used. The definition contains conjunctive language requiring **both** an active tenant paying rent and space designed for tenant's occupancy and exclusive use. The second sentence is not intended to be an exclusive description but only an illustrative description. Again, however, the second sentence refers to space not leased. To interpret this definition as the Protestants would require would be so restrictive that it clearly would have nothing to do with parking requirements or used space. It flies in the very face of the Court of Appeals determinations as to zoning in Roeser.

Section 409 requires that 5 parking spaces be allocated to every 1,000 square feet of gross leasable area. Protestants believe that if 14,700 square feet is taken out of the leasable area that the parking should still be allocated to it. This should be done, they argue, because the shopping center owner should be held accountable for his "mistakes" as one witness put it. This clearly has nothing to do with the intent of the law, which is to provide parking for space that is to be used by the public as an area attracting the public. Zoning was not intended to be punitive in its

¹This language in Landay cited by Judge Cathell in Roeser was also cited by him in White v. North, 356 Md. 31, 736 A.2d 1072 (1999), in both cases interpreting language to uphold the concept of zoning variance in the cases presented. Landay involved construction of a Baltimore City zoning ordinance and the abandonment of a non-conforming use.

concept. As Judge Offutt said in Landay: "In a constitutional sense, the only justification for the restrictions imposed by such laws as the ordinance under consideration on the use of private property is the protection of the health, safety, or morals." Landay v. MacWilliams, 173 Md. 460, 466, 196 A. 293, 295-296 (1938). It is difficult to see how the public was served by the half deserted failed shopping center that was known as Eudowood Mall before the Petitioner invested millions in its redevelopment, and it is difficult to see how they will be served by unproductive area within the center. To require the developer to tear down space to render it "unleasable" when Baltimore County now requires the developer to render it leasable and inspects it regularly to see if it is occupied is a celebration of form over substance and goes far beyond the intent of the law.²

The Hearing Officer clearly has it within his powers under Section 500.7 of the BCZR to determine the area within a center to which parking may be attributed and the area to which it should not be attributed. If area within a center can be declared off the market and is not being leased, and can not be leased without further government approval, then parking should not be attributed to it. No precedent is established thereby, for each request is evaluated on its merits.

II. DOES THE PROPOSED PAD SITE QUALIFY AS PART OF THE OVERALL SHOPPING CENTER FOR PARKING PURPOSES?

The definition of "Shopping Center" and the longstanding practice of the Zoning

²The Developer has no objection to placing a doorway in the passageway and to making the space available to all the tenants and to the patrons as common areas, if required, but there may be practical problems of getting appropriate permits to do so, and it clearly seems as though it would be a celebration of form over substance. Certainly, more work would have to be done to the interior to make it safely lit and to meet building code standards.

Commissioner and office qualifies the pad site as part of the overall shopping center for parking purposes. Twice before hearings occurred on the subject site pertaining to out parcel lots, and twice before the pad sites were approved including the jewelry store location, which was approved in Case No. 97-89 SPHX. Both the two existing sites and the proposed site share a common parking with the in-line stores in the shopping center and are interconnected by paved walkway aisles to the various buildings.

Numerous shopping centers throughout the county have freestanding pad sites, and in no case has it been determined that the freestanding site does not share the parking requirements with the in-line stores. The definition of "Shopping Center", in fact, contemplates that not all of the buildings in the center are to be attached by stating that the stores may be "located in separate buildings". The issue is whether patrons may freely walk from one building to another on the same complex. In this case there is no question but that patrons walk from one store to another.

Protestants testified that patrons of the in-line stores frequently walk from parking fields adjacent to the out-parcels to the in-line stores even though the parking is closer to the out-parcels. Does this mean that the in-line stores do not qualify as part of the center because patrons have to walk the aisles to reach them? It is a specious argument. The proposed pad site is located closer to the open parking fields than the in-line stores and will utilize the under-used parking areas. The development plans have always been filed for the entire 42.55 acres and not a portion of it. The parking has always served the entire center, and the community has asked that walls and landscaping surround the center including the out-parcels.

It is interesting in this context to note that the 11,000 square foot Hemphill's nursery center for which zoning variances were obtained decades ago in the same location as the proposed

site was always considered part of the center. All of the community associations signed covenants designating the proposed pad site consisting of 12,000 square feet as an acceptable site in 1989 as part of covenants pertaining to the entire center. Subsequent plans showing a 9,000 square foot pad site where the proposed restaurant is situated were approved without issue as to this building in Case No. 96-95 XA and in the original development plan IX-386, and counsel never objected to the parking allocated to that parcel. Even if it were deemed that the Protestants all parties in those cases never waived this argument in approving those pad sites, the consistency of zoning treatment of the pad sites is a long-standing interpretation that is entitled to deference and weight.

Protestants are correct in stating that the parking patterns for this center are different than for malls and large strip center. Patrons of this center are much more destination oriented, and they tend to park in spaces for much shorter periods of time thereby creating a greater turnover of parking spaces with more space availability. Patrons of a mall may go to browse and walk the mall, window shopping even if there are particular items in mind. The parking spaces typically do not turn over as rapidly as in a center such as this where the patrons are much more likely to visit one or two stores or locations and leave. Consequently, the demand for spaces is not as strong in a center such as this as in a mall. That is one reason why despite the popularity of the open stores there are always spaces available to accommodate the patrons even if the spaces at times are not located in close proximity to the most popular sites. The patrons frequently are willing to walk several hundred feet to the store of their choice.³

³Developer has provided approximately 18 more spaces overall than required by the BCZR after closing the interior area and proposing the 6,000 square foot pad site. We are prepared to eliminate cart stands in the parking field and otherwise restripe portions of the

III. DOES THE PROPOSED 6,000 PAD SITE MEET BALTIMORE COUNTY DEVELOPMENT STANDARDS SUCH THAT IT WILL NOT BE INJURIOUS TO THE HEALTH, SAFETY OR GENERAL WELFARE?

Every Baltimore County agency which reviewed the amended red-lined plan approved the proposed location of the pad site, and the pad site as on-site improvement meets all county standards described in the development regulations.

In a very real sense the Protestants' case is all about power and control. Who gets to say how this shopping center is to develop? Who gets to control where businesses are placed? What are the private property owner and business's rights and what are the public rights? Where does the public interest stop? We would suggest that if the development standards are met the rights of the public stop at the property line.

There was absolutely no allegation of any sort that the location of the proposed restaurant on the site would in any way be injurious to the general public. The only testimony pertaining to public traffic was that the proposed reconfigured entrance would improve an existing condition on Putty Hill Boulevard. There was no testimony that customers would park off-site or that there would be added congestion by location of the pad site on Putty Hill. It was simply a matter that the Protestants, all of whom apparently frequent the center, felt that it would make it too crowded.

parking field, if necessary, to add to the usable parking in the field. The lack of filled spaces in the field has not lead the developer into the in-depth research conducted by Ms. Spicer, but there is certainly no intent to deny the county the required number of spaces, and developer is confident with the work performed on the ALTA survey that the requisite spaces can be provided. It clearly is more in the developer's interest than any one else's that customers have parking; otherwise, they will not be customers. The only testimony was that no one was parking outside the center on public property and walking to it.

The Protestants and every customer of the center as a business invitee, however, has a choice to make, they can use the center or not as they choose. No one tells a business person how to arrange the aisles within a store, where to put the merchandise or what conveniences to provide. People frequenting a mall do not tell the mall owner where to locate the most popular stores or where to put the food amenities. Customers may choose to frequent or to avoid stores for their own reasons.

This choice differs significantly from the issues confronted in the development regulations. The development regulations were intended to confront impacts of a business on the general public. Does it interrupt the free flow of traffic? Will it create a burden on public resources? Section 26-137 of the Baltimore County Code discusses development regulation purposes as a relationship between the property to be developed and the surrounding community. Cf., City of Annapolis v. Waterman, 357 Md. 484, 745 A.2d 1000 (2000). Nowhere did the discussion indicate that the use of the pad site would have any deleterious impact on the surrounding community. The only issue is one confronted by the invitees into the center. If they do not like the traffic patterns or the congestion as they perceive it, they do not have to use the center. Prior to the renovations of the center and the attraction to the center of the current tenants by the Petitioner people did not use the center in droves. The popularity or lack thereof of a place is a matter of choice.

Interestingly, the same issues about location of a business, traffic and parking are as much of an issue to the business as to the customers. Again because of the inherent choices faced by the customers. Businesses want to have places for customers to park; otherwise, the customers do not park and do not frequent the business. Businesses want places that are accessible;

otherwise, customers will not access the business. Businesses also want locations that do not endanger their customers. Customers typically do not use locations that are perceived to be unsafe. In this case those most directly impacted by the traffic and location of the site believe that this is a most suitable site for the location of the restaurant.

Mr. Schlesinger testified that in attempting to revive the center he has had to change concepts and design to meet a changing marketplace. Even in the eight years of his association with the center the needs and desires of the buying public have changed, and he needs the flexibility to respond to them. He recognizes that the parking area closest to the center is the most congested, but most customers of Petsmart and of Target do not want to walk three hundred feet to the store. Consequently, those spaces behind the Blockbuster and around the Putty Hill and Goucher perimeter are the least used areas. Placing a pad site in this location has long been contemplated although it was recognized that a public hearing would be necessary. He as the person most directly involved in the success of the center believes that the location would not be injurious to his customers and would serve the center well.

The proposed user of the pad site also testified. The testimony from the Red Robin representative was that she had experience in locating restaurants at over 200 such centers and that this site proposal did not in any way cause her concern. She felt that it was an ideal location and not one that her customers would be unwilling to use or one that would endanger them. Her experience, Mr. Schlesinger's experience, and the testimony of Mr. Famili coupled with the Office of Planning's acceptance of the site should be sufficient to indicate that the pad site is appropriate.

Protestants argument about location fails on a logical level. After a lengthy dissertation on the perils of traffic and congestion in area "A" as shown on Protestants' Exhibit 1 Ms. Spicer

opined that she favored the site north of the jewelry store but still within area "A". Clearly, this location would make no difference as to the parking that exists now or in the future in the area and indeed it conflicted with her own testimony about where users of the food store occasionally parked. It does, however, conflict with her desire to be able to place the pad site.

Again, most of the Protestants testified about the congestion of the traffic loop immediately adjacent to the center itself. They testified, and logic, and experience would concur, that the parking spaces and travelways closest to the center were the ones most occupied. Many of the Protestants stated, however, that the best location for the restaurant was in the center itself. This would only exacerbate the congestion closest to the center as they say now occurs with the bakery on the Putty Hill side of the center.

According to the Protestants' testimony it is perfectly acceptable to increase the existing congestion as long as the use is within the center itself but absolutely unacceptable to use an out parcel hundreds of feet away from the center in an area now not heavily used. This flies in the face of the logic of their testimony as to parking congestion and traffic at the access points.

It is not contested that if the Petitioner put the proposed use in line with the other stores that there would have been no hearing. This is because the development regulations would have been met even though it is conceded that the use would increase traffic and exacerbate a parking shortage adjacent to the center. Locating the use away from the current stores and parking congestion, however, requires a hearing even though it lessens the impact of traffic on the internal loop road and also lessens the congestion from the parking closest to the in-line stores than if an in-line placement had been utilized. This indicates that the impacts of the pad site are not the real issue.

The development regulations, however, are site neutral in that if the regulations would not prohibit an in-line placement of a popular use despite its admitted adverse impacts on congestion and parking availability then clearly those impacts are not in and of themselves regulated on a private site. Mr. Rahii Famili testified as a traffic engineer for Baltimore County that this was an existing site, and not a new one, and that the traffic patterns had to be accepted under the code as given. He did not believe that the location of the pad site created an unsafe condition, just one that could be at times inconvenient. He did believe that the new entrance helped the general public in that cars would not back up onto Putty Hill from vehicles making a left on the site toward the Blockbuster pad site. While he believed that he had the right to regulate unsafe conditions, this pad location was not one that he felt was inherently unsafe. Consequently, the pad site should be approved subject to the comments of the county agencies on the proposed new entrance configuration off of Putty Hill Avenue.

IV. IS AN ENTRANCE OFF OF GOUCHER BOULEVARD OR PRINCE ROAD DESIRABLE?

An entrance from Goucher Boulevard has been previously proposed by the community groups and by the Petitioner. The county agencies, however, in the past have opposed it as the Office of Planning does now. Mr. Famili testified that there already is a third turn-in lane from Goucher that could be safely used for the proposed entry way that he designed. The wider turning radii on the entrance would safely accommodate vehicles making right turns in, and the divided median on Goucher would provide for only right turn exits.

Planning's solution to enter through the off-site property occupied by the bagel store is

conceded by most parties to be the ideal solution although Mr. Famili appeared ambivalent based on the configuration of the existing entrance. .Petitioner testified that several years ago he attempted to negotiate this entrance, but the county agencies at the time were opposed. He is prepared to try again and with the offer of the Office of Planning to mediate this may result in approval.

V. PETITIONER'S OFFERS.

Petitioner is willing to construct as a temporary access the entryway proposed by Mr. Famili to county standards from Goucher Boulevard subject to negotiation of a new entry through the off-site premises. If the new entry comes to fruition satisfactory to the property owners and to the county, then the entrance off of Goucher would be closed in favor of the new entrance to be constructed by Petitioner at Petitioner's cost. This gives all parties the opportunity to negotiate the best alternative but allows traffic engineering's plan to be given a chance to work.

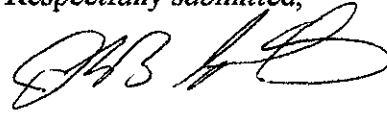
Petitioner also is willing to change the directional signage where the new entrance comes into the loop road around the stores so as to make the entrance road the through road with stop signs on either side of the loop road. This would give vehicles entering the property the right of way rather than the cars already on the loop road. Those cars would be forced to stop to allow cars coming into the center to make their turns.

CONCLUSION

Petitioner respectfully requests for the reasons presented above and based on the concurring comments from county agencies, testimony and exhibits presented that the Special

Hearing to Amend the previously approved plans and the hearing to amend the development plan
be approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JB Gontrum', written in a cursive style.

John B. Gontrum



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 1238 PUTTY HILL AVENUE

which is presently zoned R.C.C.U.

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

SEE ATTACHED

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City

State

Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

BY: JAMES SCHLESINGER

(Type or Print Name)

Signature

TALISMAN TOWSON LIMITED PARTNERSHIP

(Type or Print Name)

Signature

Address

1000 SAN REMO, SR 135,

City

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Name

Address

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates

Next Two Months

ALL

OTHER

REVIEWED BY:

DATE

11-15-01

GENERAL
PARTNER

305-662-9139

Phone No.

38446

State

Zipcode

OFFICE USE ONLY

2 DAYS



02-204-SPH



11/19/02
R. J. J. J.

December 6, 2001

**TOWSON PLACE
1238 PUTTY HILL AVENUE
ACCOUNT No. 0905840080**

REQUEST A SPECIAL HEARING TO APPROVE AMENDMENTS TO THE APPROVED SITE DEVELOPMENT PLAN FOR REDEVELOPMENT OF THE "TOWSON PLACE" PROPERTY (PDM FILE No. IX-386 and ZONING CASE No. 96-95-XA and 97-89-SPHX).

AMENDMENT 'A':

6,000 s.f.

To allow construction of a 5,700 s.f. building (Tenant #16) on a pad site fronting on Putty Hill Avenue and closing of 14,700 s.f. of gross leasable area on the second floor (Tenant #13A) resulting in a revised gross leasable area of 685,000 s.f. in lieu of the previously approved 694,000 s.f. and provide 2,927 parking spaces in lieu of the previously approved 2,972 p.s.

AMENDMENT 'B':

To allow reconstruction of 133,500 s.f. Tenant #5 (previously Ward's) and 19,500 s.f. Tenant #6 (previously Ward's TBA) with new Tenant #5 at 137,000 s.f. resulting in a revised gross leasable area of 669,000 s.f. in lieu of the previously approved 694,000 s.f. and provide 2,847 parking spaces in lieu of the previously approved 2,972 p.s.

Dismissed by Petitioner

#02-204-SPH

TOWSON PLACE

f.k.a. TOWSON MARKETPLACE

PROJECT SUMMARY

The site was approved per Development Plan IX-386 by Hearing Officer's Order dated October 8, 1996 for Case No.97-89-SPHX and 98-245-SPH for 694,000 s.f. of Gross Leasable Area with a total of 2972 parking spaces.

The following is a summary of total site building Gross Leasable Areas:

Building Permit No. B-286395-C

Tenant #10	134,200 s.f.	TARGET
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Building Permit No. B-295921-C

Tenant #6	19,500 s.f.	(PREVIOUS WARD'S TBA)
Tenant #7	19,400 s.f.	MICHAELS

Building Permit No. B-318895-C

Building Permit No. B-333732-C

Tenant #1	33,500 s.f.	BED, BATH & BEYOND
Tenant #2	43,800 s.f.	THE SPORT AUTHORITY
Tenant #3	32,200 s.f.	TJ MAXX
Tenant #3A	21,100 s.f.	VACANT (1ST FLR)
Tenant #4	25,700 s.f.	TODAY'S MAN
Tenant #9	26,100 s.f.	PETSMART
Tenant #9A	5,000 s.f.	THE AVENUE
Tenant #9B	1,000 s.f.	KING'S CHINESE
Tenant #9C	4,500 s.f.	PANERA BREAD
Tenant #11	55,300 s.f.	SUPER FRESH
Tenant #13	34,000 s.f.	DSW SHOE WAREHOUSE
Tenant #13A	14,700 s.f.	VACANT (2ND FLR)

Existing Tenant #5	133,500 s.f.	(PREVIOUS WARDS)
Existing Tenant #8	46,000 s.f.	TOYS-R-US
Existing Tenant #12	33,000 s.f.	MARSHALLS
Existing Tenant #14	6,000 s.f.	BLOCKBUSTER
Tenant #15	5,500 s.f.	JARED JEWELERS

Total Area = 694,000 s.f. G.L.A. Approved per Development Plan

Parking Required = 694,000 s.f. x 5p.s. per 1000 s.f. = 3470 p.s.

Parking Variance per Case #77-230-XA = -368 p.s.

Parking Variance per Case #96-95-XA = -130 p.s.

Total Required = 2972 p.s.

Total parking provided: = 2972 ps

AMENDMENT 'A'

 Tenant #13A ~14,700 s.f. TO BE CLOSED ON 2ND FLOOR
(TO ACCOMMODATE CONSTRUCTION OF NEW TENANT #16)

Total Area = 679,300 s.f. G.L.A.

New Tenant #16 5,700 s.f. RESTAURANT

Total Area = 685,000 s.f. G.L.A.

Parking Required = 685,000 s.f. x 5p.s. per 1000 s.f. = 3425 p.s.

Parking Variance per Case #77-230-XA = -368 p.s.

Parking Variance per Case #96-95-XA = -130 p.s.

Total Required = 2927 p.s.

There is a -35 ps parking loss due to New Tenant #16.

Total parking provided: = 2937 ps

AMENDMENT 'B'

Ex. Tenant #5 -133,500 s.f. TO BE CONVERTED TO NEW TEN. #5

Ex. Tenant #6 -19,500 s.f. TO BE CONVERTED TO NEW TEN. #5

New Tenant #5 137,000 s.f. NEW TENANT #5

Ex. Tenant #5 -16,000 s.f. TO BE CLOSED ON 2ND FLOOR

(TO ACCOMMODATE CONSTRUCTION OF NEW TENANT #5)

Total Area = 669,000 s.f. G.L.A.

Parking Required = 669,000 s.f. x 5p.s. per 1000 s.f. = 3345 p.s.

Parking Variance per Case #77-230-XA = -368 p.s.

Parking Variance per Case #96-95-XA = -130 p.s.

Total Required = 2847 p.s.

There is a -16 ps parking loss due to New Tenant #5.

Total parking provided: = 2921 ps



ENGINEERING
TECHNOLOGIES

KCW Engineering Technologies, Inc.
3104 Timanus Lane, Suite 101
Baltimore, MD 21244

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William K. Woody
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Edwin S. Howe, III
Associate Vice President

Joseph P. Wood
Associate

William C. Usher
Associate

Reginald C. Roberts
Associate

J. Jay Wooldridge
Associate

ZONING DESCRIPTION OF "TOWSON PLACE"

BEGINNING FOR THE SAME at a point on the east side of Goucher Boulevard, 110 feet wide, at the distance of 122 feet north of the centerline of Putty Hill Avenue, 94 feet wide, and running thence binding on the east side of Goucher Boulevard, referring all courses of this description to the Baltimore County Metropolitan District Meridian

1. North 4 degrees 19 minutes 10 seconds West 279.68 feet and
2. by a curve to the left having a radius of 1965.00 feet, an arc length of 132.50 feet and a chord bearing North 06 degrees 15 minutes 04 seconds West 132.47 feet; thence leaving Goucher Boulevard, on a chamfer to the original alignment of Prince Road,
3. North 07 degrees 22 minutes 07 seconds East 95.98 feet; thence
4. North 23 degrees 38 minutes 33 seconds East 497.69 feet to intersect the east side of Prince Road, 70 feet wide, as now constructed; thence binding on said Prince Road,
5. North 23 degrees 38 minutes 33 seconds East 655.64 feet to a chamfer or cut-off leading to Joppa Road; thence binding on said chamfer,
6. North 68 degrees 36 minutes 24 seconds East 33.18 feet to south side of Joppa Road, varying in width; thence binding on said Joppa Road,
7. South 64 degrees 56 minutes 08 seconds East 148.69 feet; thence
8. South 50 degrees 41 minutes 08 seconds East 36.53 feet; thence
9. South 64 degrees 56 minutes 3 seconds East 338.58 feet; thence
10. North 25 degrees 03 minutes 52 seconds East 9.00 feet; thence
11. South 64 degrees 56 minutes 08 seconds East 301.19 feet; thence
12. by a curve to the right having a radius of 4062.49 feet, an arc length of 19.99 feet and a chord bearing South 65 degrees 04 minutes 36 seconds East 19.99 feet; thence
13. South 51 degrees 41 minutes 51 seconds East 37.79 feet; and
14. by a curve to the left having a radius of 4071.49 feet, an arc length of 344.34 feet and a chord bearing South 68 degrees 09 minutes 27 seconds East 344.24 feet to intersect the west outline of Parcel A of the Plat of Maryland Business Park as recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. No. 38, Folio 12; thence binding on said western outline and to and along the west side of a 16 foot alley shown as on Block D, Section 2A of the Plat of Loch Raven Manor, recorded among said Land Records in Plat Book G.L.B. No. 23, Folio 139, in all,
15. South 13 degrees 56 minutes 50 seconds West 1132.47 feet to the north right-of-way line of Putty Hill Avenue; thence binding thereon,

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**ENGINEERING
TECHNOLOGIES**

KCW Engineering Technologies, Inc.
3104 Timanus Lane, Suite 101
Baltimore, MD 21244

(410) 281-0030
Fax (410) 298-0604
www.KCW-ET.com

William K. Woody
President and CEO

Douglas L. Kennedy
Senior Vice President

J. Peter McDonnell
Vice President

Ronald J. Lind
Associate Vice President

Edwin S. Howe, III
Associate Vice President

Joseph P. Wood
Associate

William C. Usher
Associate

Reginald C. Roberts
Associate

J. Jay Wooldrige
Associate

16. by a curve to the left having a radius of 1637.00 feet, an arc length of 434.40 feet and a chord bearing North 86 degrees 43 minutes 02 seconds West 433.13 feet; thence
17. South 85 degrees 40 minutes 50 seconds West 93.96 feet; thence
18. North 04 degrees 19 minutes 10 seconds West 10.00 feet; thence
19. South 85 degrees 40 minutes 50 seconds West 294.00 feet; thence
20. North 56 degrees 28 minutes 50 seconds West 14.00 feet; thence
21. South 66 degrees 59 minutes 10 seconds West 58.00 feet to an iron pipe found near the west side of Towson Marketplace entrance; thence
22. South 85 degrees 40 minutes 50 seconds West 346.35 feet to an iron pipe found measured North 85 degrees 40 minutes 50 seconds East 75.00 feet from the intersection referencing the place of beginning; thence binding on the chamfer at the northeast corner of Goucher Boulevard and Putty Hill Avenue,
23. North 49 degrees 19 minutes 10 seconds West 106.07 feet to the place of beginning.

CONTAINING 1,878,295 square feet or 43.120 acres of land, more or less

BEING all of a 43.120 acre parcel of land as described in a Confirmatory Deed dated March 1, 1995 and recorded among the Land Records of Baltimore County, Maryland in Liber 10961, Folio 001, was conveyed by Towson Marketplace Limited Partnership to Talisman Towson Limited Partnership.



204

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #02-204-SPH

1238 Putty Hill Avenue

E/S Goucher Blvd., 122' N centerline of Putty Hill Avenue

9th Election District - 4th Councilmanic District

Legal Owner(s): James A. Schlesinger,

Talisman Towson Limited Partnership

Special Hearing: to approve amendments to the approved site development plan and zoning hearings for redevelopment of the "Towson Place" property.

Hearing: Tuesday, January 22, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 1/8/02 Jan. 8

0513933

CERTIFICATE OF PUBLICATION

1/10/2002

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 1/8/2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

12-204-5PH

AMOUNT \$ 250.

FOR: ~~Honorable Speaker & Honoring Filing is~~
1238 Pott, Hill Ave (Tolson March 1970)

CASHIER'S VALIDATION[illegible]

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 02-204-SPH
Petitioner: TALISMAN Towson LTD. Partnership
Address or Location: ~~1500~~ 1238 Putty Hill Ave

PLEASE FORWARD ADVERTISING BILL TO:

Name: James A. Schlesinger, General Partner
Address: TALISMAN Towson Limited Partnership
1500 San Remo Suite 135
Coral Gables, Florida, 33146
Telephone Number: (305) 662-9559

TO: PATUXENT PUBLISHING COMPANY
Tuesday, January 8, 2002 Issue -- Jeffersonian

Please forward billing to:

James A Schlesinger
Talisman Towson Limited Partnership
1500 San Remo, Suite 135
Coral Gables FL 33146

305 662-9559

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-204-SPH

1238 Putty Hill Avenue

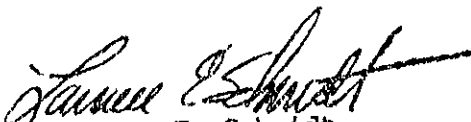
E/S Goucher Blvd, 122' N centerline of Putty Hill Avenue

9th Election District – 4th Councilmanic District

Legal Owner: James A Schlesinger, Talisman Towson Limited Partnership

Special Hearing to approve amendments to the approved site development plan and zoning hearings for redevelopment of the "Towson Place" property.

HEARING: Tuesday, January 22, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT GDZ
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

December 24, 2001

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-204-SPH

1238 Putty Hill Avenue

E/S Goucher Blvd, 122' N centerline of Putty Hill Avenue

9th Election District – 4th Councilmanic District

Legal Owner: James A Schlesinger, Talisman Towson Limited Partnership

Special Hearing to approve amendments to the approved site development plan and zoning hearings for redevelopment of the "Towson Place" property.

HEARING: Tuesday, January 22, 2002 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon G.D.Z.
Director

C: John B Gontrum, 814 Eastern Blvd, Baltimore 21221
James A Schlesinger, Talisman Towson Limited Partnership, 1500 San Remo,
Ste 135, Coral Gables, FL 33146

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, JANURAY 7, 2002.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

January 18, 2002

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-204-SPH

1238 Putty Hill Avenue

E/S Goucher Blvd, 122' N centerline of Putty Hill Avenue

9th Election District – 4th Councilmanic District

Legal Owner: James A Schlesinger, Talisman Towson Limited Partnership

Special Hearing to approve amendments to the approved site development plan and zoning hearings for redevelopment of the "Towson Place" property.

HEARING: Friday, February 15, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon 672
Director

C: John B Gontrum, 814 Eastern Boulevard, Baltimore 21221
James A Schlesinger, Talisman Towson Limited Partnership, 1500 San Remo,
Suite 135, Coral Gables FL 33146

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, JANUARY 31, 2002.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Come visit the County's Website at www.co.ba.md.us





Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

February 15, 2002

John Gontrum, Esquire
Romadka, Gontrum & McLaughlin
814 Eastern Boulevard
Baltimore, Maryland 21221

Michael P. Tanczyn, Esquire
Law Offices of Michael P. Tanczyn
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204

Re: HOH IX-386 and Case No. 02-204-SPH
Towson Market Place
Property: S/S Joppa Road, E of Goucher Boulevard

Dear Messrs. Gontrum & Tanczyn:

This letter will confirm that Towson Market Place has been continued from Friday, February 15, 2002 to Monday, March 25, 2002 (**all day**) in Room 407 of the County Courts Building. Should a second hearing be necessary, it will be held in Room 407 at 9:00 a.m. on Thursday, March 28, 2002.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lawrence E. Schmidt", is written over a horizontal line.

Lawrence E. Schmidt
Zoning Commissioner

LES:raj

cc: Donna Spicer
8719 Eddington Road
Baltimore, MD 21234

Teri Holland
c/o Blockbuster Video
1200 Putty Hill Avenue
Towson, MD 21286

Come visit the County's Website at www.co.ba.md.us





Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

February 20, 2002

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-204-SPH

1238 Putty Hill Avenue

E/S Goucher Blvd, 122' N centerline of Putty Hill Avenue

9th Election District – 4th Councilmanic District

Legal Owner: James A Schlesinger, Talisman Towson Limited Partnership

Special Hearing to approve amendments to the approved site development plan and zoning hearings for redevelopment of the "Towson Place" property.

HEARING: Monday, March 25, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in cursive script, appearing to read "Arnold Jablon".

Arnold Jablon GJZ
Director

C: John B Gontrum, 814 Eastern Boulevard, Baltimore 21221
James A Schlesinger, Talisman Towson Limited Partnership, 1500 San Remo,
Suite 135, Coral Gables FL 33146

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, MARCH 07, 2002.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

1K
2/15/02
pp

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: January 18, 2002

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

JAN 22 2002

SUBJECT: 1238 Putty Hill Blvd. – **REVISED COMMENTS**

INFORMATION:

Item Number: 02-204

Petitioner: Talisman Towson Limited Partnership
c/o James Schlesinger

Zoning: BL-CCC/ML-BM/DR 10.5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

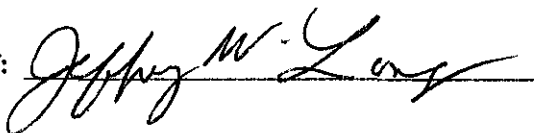
AMENDMENT 'A':

The Office of Planning does not support the proposed location of the 5,700 square foot building. The parking area directly adjacent to the proposed site is very limited and will be shared with the existing Blockbuster Video Rental. As such, patrons to both sites will be forced to park in the main parking area located to the rear of the subject site. This would create a constant pedestrian/vehicular conflict that would jeopardize public safety and welfare. The petitioner should consider an alternate location for the proposed 5,700 square foot restaurant. The new location should be in keeping with all covenants applicable to the subject site.

AMENDMANT 'B':

There appears to be a discrepancy between the existing 153,00 square feet (133,500 + 19,500) leasable area with reference to Tenant space #5 and # 6, and the proposed 137,000 square feet mentioned in the petition. The petitioner should clarify this discrepancy. Additionally, the term "reconstruction" (also mentioned in the petition) should be defined.


Section Chief:
AFK:MAC:



BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** January 11, 2002
Department of Permits & Development Mgmt.

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 24, 2001
Item Nos. 200, 201, 202, 204, 205, 206,
208, 209, 210, 211, 212, 213, 215, 216,
217, 218, 219, and 220

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.


RWB:HJO.jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** January 11, 2002
Department of Permits & Development Mgmt.

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For December 24, 2001
Item Nos. 200, 201, 202, ~~204~~, 205, 208,
209, 210, 211, 212, 213, 215, 216, 217,
218, 219, and 220
REVISED January 23, 2002
(Item No. 206 has been removed from
the above items and has been updated.)

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

January 2, 2002

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF December 17, 2001

Item No.: 203, ~~204~~ 206, 209, 215, 216,

Dear Ms. Stephens:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 12.31.01

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. [REDACTED] JJS

Dear Mr. Zahner:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: December 27, 2001

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: Zoning Advisory Petition(s): **Case(s) 02-165 & 02-204**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by: Mark A. Cunningham

Section Chief: Jeffrey W. Long

AFK/JL:MAC

RE: PETITION FOR SPECIAL HEARING
1238 Putty Hill Avenue, E/S Goucher Blvd,
122' N of c/l Putty Hill Ave
9th Election District, 4th Councilmanic

Legal Owner: Talisman Towson L.P.
Petitioner(s)

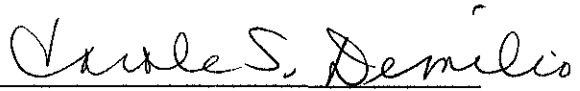
* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-204-SPH

* * * * *

ENTRY OF APPEARANCE

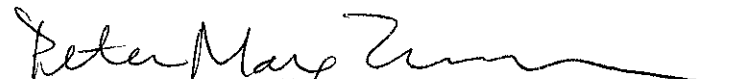
Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of January, 2002 a copy of the foregoing Entry of Appearance was mailed to John B. Gontrum, Esq., Romadka, Gontrum & McLaughlin, 814 Eastern Blvd., Baltimore, MD 21221, attorney for Petitioner(s).


PETER MAX ZIMMERMAN

ZONING HEARING FILE INTERNAL CHECKLIST

Zoning Case No. 02-204-SPH

Date Completed/Initials

12-17-01

PREPARE HEARING FILE (put case number on all papers; hole punch and place appropriately, put label and case number on folder, complete information on stamp on front of folder)

12-24-01

DETERMINE HEARING DATE (schedule within 45 days of filing; post and advertise at least 15 days prior to hearing)

12-24-01

TYPE HEARING NOTICE AND ADVERTISING NOTICE (type according to sample, taking billing information for advertising from advertising form in file; make appropriate copies; mail original and copies of hearing notice; place original advertising notice in Patuxent's box; file copies of both notices in hearing file, update ZAC in computer for hearing date, time and place)

UPDATE ZONING COMMISSIONER'S HEARING CALENDAR (keep original in "red" folder, mail copy to zoning commissioner's office)

COMPLETE FILE (write hearing date, time, and room on front of hearing folder, file in numerical order in cabinet next to copier until it is pulled for sending to zoning commissioner's office)

POSTPONEMENTS (type postponement letter, make appropriate copies, mail original and copies; send copy to zoning commissioner, file copy in hearing file; update hearing calendar and ZAC in computer)

RESCHEDULING (determine hearing date; type letter confirming new date, make appropriate copies, mail original and copies, file copy in hearing file, update hearing calendar and ZAC in computer, refile hearing folder)

INDEX CARDS (prepare index cards, according to sample; file cards in cabinet)

ADVERTISING/POSTING CERTIFICATES (check off on front of hearing file; put certificates in file)

COMMENTS (check off agency comments received on front of hearing file, make copies, type comments letter, mail original to petitioner, file copy in hearing file)

FILES TO ZONING COMMISSIONER'S OFFICE (pull the files for the following week every Friday and administrative files on Tuesday, verify that checklist on front of hearing file has been completed; secure all papers under clips in file, send files for hearings to zoning commissioner's office by noon on Friday and files for administrative on Tuesday morning)

TOWSON MARKETPLACE ZONING HISTORY

CASE NO.	DATE	DESCRIPTION
5900		Variance for identification sign
68-83-R		Reclassification from R-6 to B.L.
74-143-R	Approved Jan. 7, 1974	Reclassification of 0.33 acres from B.L. to B.M. for Martin's catering.
77-230-XA	Approved	Variance to permit 3047 off-street parking spaces in lieu of the required 3415 spaces (-368 parking spaces). Use of theaters was denied.
79-125-X	Approved Feb. 5, 1979	Special Exception for automotive service garage in Montgomery Wards.
1984 Compr. Zoning Maps	1984	B.L.CCC and D.R.5.5 (13.9 acres)
88-136-SPH	Denied Jan. 29, 1988	SPH for a use permit to store new automobiles in D.R.5.5 zone.
1988 Compr. Zoning Maps	1988	Zoning Change: D.R.5.5 to B.L.-CCC
Permit 104135 C-1664-88	Approved March 1989	Site plan updated to include "Blockbuster Video" pad site building.
93-360-SPHA	Approved June 24, 1993	Variance for 0' setback for existing parking SPH to amend site plan for Hemphill's Outdoor Garden Center.
96-95-XA and Development Plan #IX-386	Approved Nov. 9, 1995 Amended Order Feb. 22, 1996	Variance for parking granted for continuance of -368 p.s. per #77-230-XA and additional -130 p.s. to allow 2972 p.s. total. Relocation of auto service garage previously approved per #79-125-X granted for new location specified on Development Plan #IX-386.
97-89-SPHX, and Development Plan #IX-386	Approved Oct 8, 1996	SPH to approve Amended Development #IX-386. Special Exception to approve relocation of auto service garage previously approved per Case #79-125-X and Case #96-95-XA.
98-245-SPH	Approved March 31, 1998	SPH to clarify previous restrictions #3 & #4 case #96-95-XA as they relate to exhibits 11(a), 11(b) and 12 in that case and an amendment to the site plan in case #97-89-SPHX (3 restrictions) also the lighting plan and jurisdiction and authority to modify same shall be with the DZC (Deputy Zoning Commissioner). Also the DZC shall have jurisdiction over any changes in the facades. Also all of the terms and conditions and restrictions in prior case #IX-386 and #96-95-XA and #97-89-SPHX shall remain in full force and effect unless changed by this Decision.
00-213-SPH	Approved Jan. 1, 2000	SPH to amend restrictions in prior cases to permit the Toys-R-US façade and installation. To allow a hedgerow in lieu of brick wall along Putty Hill Ave. In accordance with agreement entered into between the parties, Tailsman and CAMM, Inc., dated 12/17/99, which shall be incorporated in this Order.

see 02-204-SPH
IX-386 > 02-15-02 = This case file
Hearing

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard
Baltimore, Maryland 21221

(410) 686-8274
(410) 686-0118 FAX

ROBERT J. ROMADKA
JOHN B. GONTRUM
J. MICHAEL McLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

May 16, 2002

Timothy M. Kotroco, Esquire
Deputy Zoning Commissioner
for Baltimore County
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No 02-204-SPH
Hearing Officer's Hearing No. IX-386
Property: S/S of Joppa Road, E. of Goucher Boulevard
9th Election District, 4th Councilmanic District
Towson Marketplace

Dear Mr. Kotroco:

Please consider this a joint request by John V. Murphy, Esquire and by me on behalf of our clients to re-open the hearing on the development plan and the special hearing for further testimony and decision, if necessary. It is my understanding that your decision must be rendered within fifteen days after the final hearing on the development (Baltimore County Code, § 26-206), and neither of us desires at this time for there to be a final decision on these matters. Certainly, neither of us wishes to prejudice the rights of the other either with respect to the opportunity of appeal or with respect to your ability to render a decision on the issue.

Mr. Murphy and I have discussed this issue at length and have reviewed your decision, and our clients would like the opportunity to further address the issues raised in your Hearing Officer's Opinion & Development Plan Order possibly with a view toward revising the proposal of the Petitioner as well as covenant issues now pending in a circuit court case. My client is reviewing its proposal in light of your order and community issues, and Mr. Murphy advises that his client also would like the opportunity to visit issues pertaining to the viability of the center. This reopening of the hearing would give all parties some "breathing room" to possibly resolve the issues.

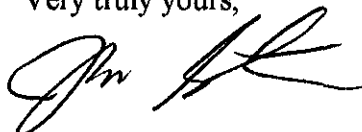
MAY 16 2002

Mr. Murphy and I have further agreed that either party after notice to the other would have the opportunity to withdraw this request for further hearing and to go forward with the appellate process and also would afford the other party ten (10) days notice for a cross appeal. While this request to hold open the hearing is indefinite, it is not the intent of either party to unreasonably delay the other; rather it is hoped that the issues can be promptly addressed.

As your opinion was written on April 19, 2002, it is our understanding that you may reopen the hearing within the thirty (30) day period from that decision.

Thank you for your consideration in these matters.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John B. Gontrum', written in a cursive style.

John B. Gontrum

cc. John V. Murphy, Esq.
Baltimore County People's Counsel



2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Joseph S. Battaglia
Chairman, County Council

SCALE	LOCATION	SHEET
1" = 200' ±	EUDOWOOD	10-B
DATE OF PHOTOGRAPHY JANUARY 1986	TOWSON ESTATES	
	TOWSON HEIGHTS	
SCALE	LOCATION	SHEET
1" = 200' ±	WILTONDALE	9-B
DATE OF PHOTOGRAPHY JANUARY 1986	TOWSON HEIGHTS	
	LOCH RAVEN	
	VILLAGE	

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

Joseph S. Battaglia
Chairman, County Council

#204
ZONING MAP
TOWSON PLACE
1238 PUTTY HILL AVE
SCALE: 1" = 200'

KCW
ENGINEERING
TECHNOLOGIES
KCW Engineering Technologies, Inc.
3104 Timanus Lane, Suite 101
Baltimore, MD 21244
(410) 281-0033
Fax (410) 281-1065
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TOWSON MARKETPLACE REDEVELOPMENT
PROPOSED CONDITIONS DEVELOPMENT PLAN

OWNER/DEVELOPER
Towson Marketplace LLC
1500 North Howard Avenue
Baltimore, MD 21204
Attn: James Schaeffer
Tel: (410) 526-0500

PREPARED BY
KCM Consultants, Inc.
Civil Engineers / Land Surveyors
Architects, Planners
100 E. Redwood Street
Baltimore, MD 21204
Attn: Douglas L. Kennedy, P.E.
Tel: (410) 232-0900

DEED REFERENCE
Liber 1047, Folio 279
COUNCILMANIC DIST. C-4
WATERMANS. Herring Run
43.12 acres
CENSUS TRACT
4912201
SEWER DESIGNATION: S-1
WATER DESIGNATION: W-1

EXISTING LAND USE
Retail Shopping Center, Auto Service Entrance,
with the use of B.M. Zoning, lot not to be a tenant after
redemption.

PROPOSED BUILDING AREA
Gross Building Area (G.B.A.) 750,000 s.f.
Gross Lot Area (G.L.A.) 447,000 s.f.
Gross Leasable Area (G.L.A.) 669,000 s.f.

PARKING
Retail Shopping Center
894,000 s.f. G.L.A. x 1.5 p.s. per 1000 s.f. = 3420 p.s.
Parking Variance per Case #77-230-XX = 385 p.s.
Proposed Parking Spaces = 385 p.s.
Note: Parking spaces comply with BCZR Section 409.8.4.1

AVERAGE DAILY TRIPS: Retail Shopping Center
654,000 s.f. G.L.A. x 4.7 trips per 1000 s.f. = 32618 adt

STORMWATER MANAGEMENT
The existing shopping center was
designed to the standards of Baltimore County's SWM
Policy. The new development will be designed to meet the
stormwater runoff. Waiver of SWM policy granted by DEPRM.

CHANGES TO TOPOGRAPHY
The development of this site will
not result in any significant changes to topography.

ZONING VARIANCES
Zoning variances granted for parking per Case
#77-230-XX for 385 parking spaces and Case #85-55-XX for 130
2872 p.s. in lieu of 3470 p.s. per BCZR Section 409.8.4.1
SPECIAL HEARING
The site is a retail shopping center. The proposed development of auto
service garage previously granted per Case #75-125-XX. The proposed development of auto
service garage previously granted per Case #75-125-XX. The proposed development of auto
service garage previously granted per Case #75-125-XX.

WAVERS
No waivers of standards or development regulations are
requested for this Development Plan.

LANDSCAPE PLAN
A Landscape Plan to be approved by Baltimore
County is a part of this redevelopment proposal.

COMPREHENSIVE MANUAL OF DEVELOPMENT POLICIES
The Development Plan is consistent with:
- Comprehensive Manual of Development Policies
- Baltimore County Development Regulations

COUNTY ADOPTED PLANS
The Development Plan is consistent with:
- Comprehensive Manual of Development Policies
- Baltimore County Development Regulations

COVENANTS
Redevelopment of this property is subject to an
agreement recorded in the Land Records of Baltimore County in
Liber 824 folio 050 between Brambles (jointly owned) and
Towson Marketplace LLC (jointly owned) dated 10/28/95.

LIGHTING
All parking lot lighting shall be pole or building mounted
and shall be directed away from public rights-of-way and adjacent
residential areas.

SIGNAGE
All signs shall comply with BCZR Section 413 and all zoning
sign regulations for C-4 Zone.

BUILDING SETBACKS
For C-4 Zone:
Front 10 ft.
Side 5 ft.
Rear 5 ft.

FLOOR AREA RATIO
750,000 s.f. / (43.12 ac / 43500 s.f./ac) = 0.4

ENVIRONMENTAL
This site is a retail shopping center. The proposed development of auto
service garage previously granted per Case #75-125-XX. The proposed development of auto
service garage previously granted per Case #75-125-XX. The proposed development of auto
service garage previously granted per Case #75-125-XX.

AMENITY OPEN SPACE
Required: 0.2 x 750,000 s.f. (G.B.A.) = 150,000 s.f. = 3.44 ac
Provided: 150,000 s.f. = 3.44 ac

HISTORIC
There are no known historic buildings or sites on or adjacent
to this property. There are no areas of critical historic concern.

SOILS
The site does not include any prime or productive soils. Per
Baltimore County Soil Survey, on-site soils are: G1B and G1B.

PREVIOUS ZONING CASES
24-1428 Approved Jan. 7, 1974
77-230-XX Approved Feb. 5, 1979
85-55-XX Denied Jan. 25, 1988
85-55-XX Denied Jan. 25, 1988
85-55-XX Approved March 1989
85-55-XX Approved March 1989
85-55-XX Approved March 1989
85-55-XX Approved March 1989

REDEVELOPMENT PROJECT
Redevelopment project per amended order dated Feb. 22, 1998 in
Case # 85-55-XX.

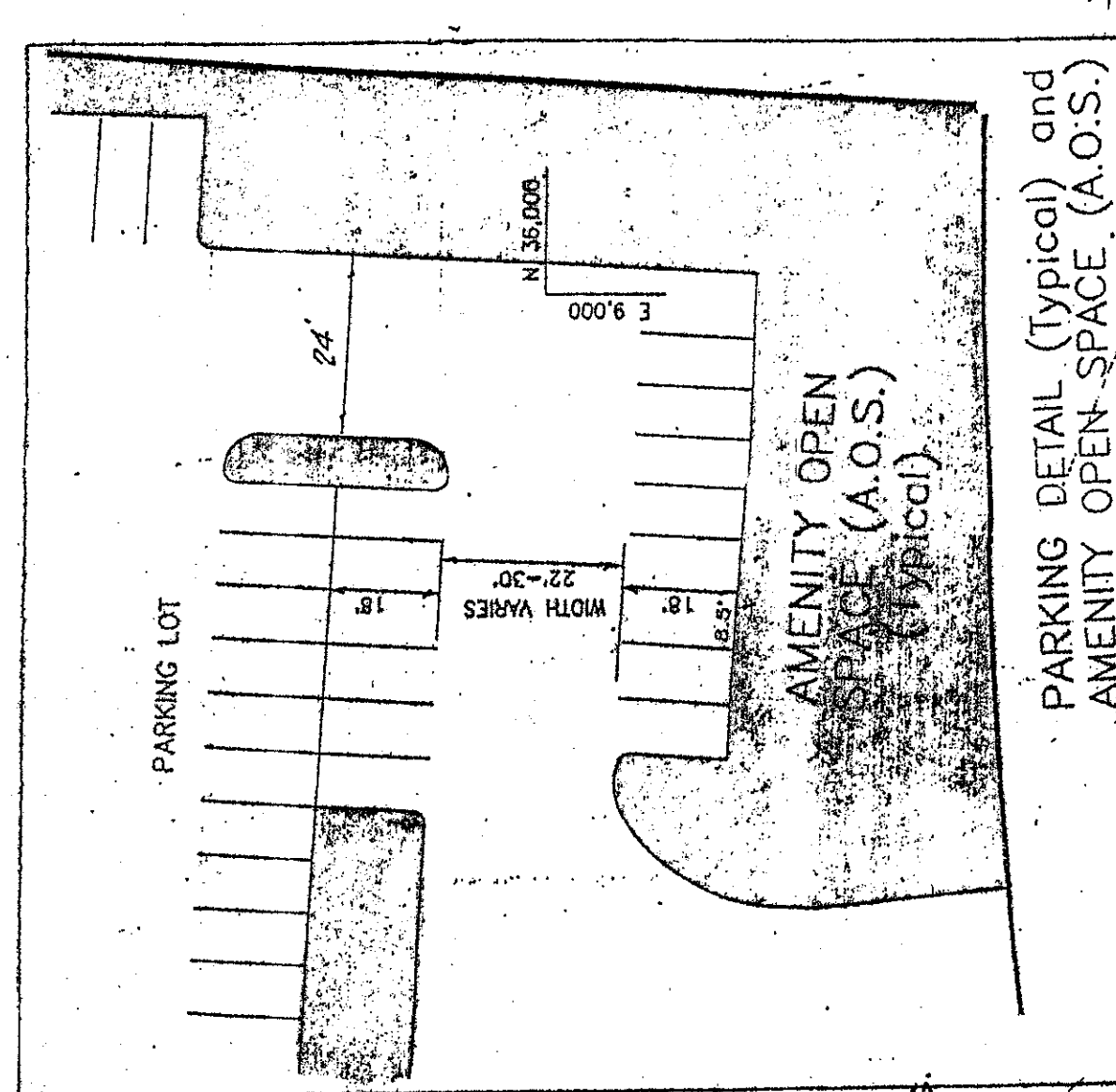
COMBINED HEARINGS
Per Baltimore County Development Regulations
Section 20-205.1, a request has been made for a combined hearing
on the proposed development plan and the proposed conditions
development plan. A combined hearing will be held on the proposed
development plan and the proposed conditions development plan.

COMMUNITY INPUT MEETING
Loch Raven Senior High School on May 22, 1995. Issues raised
included parking, safety, parking and theaters. Public safety has been
addressed per Case # 77-230-XX and #85-55-XX. No use of
theaters is now proposed.

MASS TRANSIT
This site is currently served by the #9 and #65 Mass
Transit Administration bus lines.

EMERGENCIES
Electricity and gas will continue to be used as sources of
energy. No smoke, noise, dust, or odors will be emitted or that are
anticipated from the proposed use and redevelopment.

TRASH REMOVAL
Trash and debris shall be removed from the parking lot
on a daily basis.



PARKING DETAIL (Typical) and
AMENITY OPEN SPACE (A.O.S.)

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